

LEGAL PROFESSION EMBRACES TECHNOLOGY INNOVATIONS

Technology is revolutionising the way lawyers practice their trade. To deliver the greatest value to their clients, lawyers must know about the latest in litigation technology. Last year's Pyrrho Investments case was a shot in the arm for the industry. It put technology at the heart of litigation.

Today you would be hard pressed to find a dispute or investigation handled by a top tier firm acting for a multinational that doesn't require the examination of electronic evidence.

On the one hand, there's a growing dependence on the data that underpins a global business, and on the other, corporations are demanding the delivery of greater efficiencies.

The rate of technological change has rapidly increased over the last three years. Reviewing electronic documents is not only ubiquitous in 2017, it's at scale. Large litigations require millions of documents to be searched for facts critical to a case.

The adoption rate of technologies in a litigator's armoury has not always been quick, in what is a conservative profession. However, those lawyers who have practised most of their career in an increasingly digitised world and who seek out and leverage technology solutions on cases are securing coveted places on corporate panels as they achieve cost savings for clients.

That's why there's a greater willingness to use technology, particularly e-discovery software. Predictive Coding, where algorithms identify documents relevant to cases, has been available for over five years. However, only since its endorsement by the English courts in last year's landmark Pyrrho Investments case, which saw algorithms sift through over 3 million documents of potential evidence for relevance, have UK litigators been willing to adopt the technology. This was cheaper and quicker than a manual search and has now opened the floodgates to the use of machine learning in the document review process. The next

generation of predictive technology, Continuous Active Learning, is already being adopted at a faster rate.

Corporations are also looking to reduce litigation costs by adopting technology. Those organisations that operate in heavily regulated sectors, such as financial services, pharmaceuticals or utilities, or are frequently the subject of litigation, are embarking on Information Governance programmes and implementing litigation hold platforms. This enables them to respond quickly and efficiently when an investigation arises. The upcoming GDPR legislation and the new Network and Information Security Directive are also compelling companies to demonstrate compliance and management of data.

Companies are now carefully selecting technology service providers that can be trusted to preserve and hold data, whilst the largest are developing internal computer forensic and e-discovery capabilities. It is now common for a corporation to have a panel of technology service providers, in the same way they have a panel of legal advisers.

The expertise that corporations, and their counsel, seek from legal technology providers is also changing. This is partly driven by the development of internal capabilities within corporations and law firms to handle the more straightforward electronic evidence issues, and partly by the increasing variety of digital evidence. In some cases, it may be enough to review the e-mail accounts of a couple of individuals, other cases involve trawling instant messaging, social media, apps on mobile devices, and backup tapes of systems decommissioned 10 years ago.

The rise in the likely sources of evidence, the availability of technologies to efficiently search and review information, and the challenges posed by the increasingly complex web of data protection legislation are all driving demand for strategic advice as to how to navigate these issues in a dispute or investigation. Smart technology on its own isn't enough, you need smart people.

A future that combines people, processes and technology, both inside the corporation, and through their legal and technology advisers, making the handling of investigations more efficient, will bring the greatest benefits. There's a cohort of lawyers who understand that this is where the role of the adviser is heading and are seeking to stay ahead of the game. Technology has disrupted countless other industries, and its effect is widely being felt now in the legal profession in the UK and around Europe. ■

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Earnshaw:
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